

REMARKS

This is in response to the Office Action of April 2, 2009. With this response, claims 1 and 109 are amended and all pending claims 1-4, 9-43, 45, 47-54, 56, 109 and 111-114 are presented for reconsideration and favorable action.

The Office Action stated that the starter test and charging system test based upon the result of the battery test was not described in the specification in such a way as to reasonably conveyed to one skilled in the relevant art that the inventors, at the time the invention was filed, had possession of the claimed invention. More specifically, claims 1 and 109 were objected to and it was stated that it was not clear from the specification that the starter test and charging system test are based upon a result of a battery test. However, regarding the starter test, Applicant notes that in the paragraph spanning pages 16 and 17 of the specification, the use of battery test is described and general condition of the battery is determined such as good, good but recharge, recharge, charge and retest, replace battery or bad cell replace. Further, in describing the block diagram of Figure 3, various aspects of the starter test are described including determining that the starting voltage is low but the battery is discharged, that the starting voltage is low but the battery is fully charged, that the starting voltage is normal and the battery is fully charged. Thus, the starting test is a function of the battery test. Regarding the charging system test, this is discussed with respect to Figures 4, 5, 6, 7 and 8. At page 19, lines 26-30 a portion of the test is described in which the battery test is used to indicate whether the battery may have been charged before performing these charging system tests. If this is the case, the user is prompted to indicate whether the test is being performed before or after the charging the battery and the system is retested. Further, the paragraph spanning page 19-20, the battery test is used to determine surface charge which can then be removed by turning on the headlights and the system is then retested. Further, at page 22, line 15, a portion of the charging system test is described in which the battery test is used to prevent incorrectly identifying the charging system as being faulty. The battery test ensures that a good battery is being charged during the charging system test. Thus, it is believed that claims 1 and 109 are sufficiently supported by the specification.

Additionally, in Section 5 of the Office Action, the wording "based upon" was

identified. With this response, the language “based upon” has been changed to “is a function of.” It is believed that this language is clearly not a generic term and the prior art could not reasonably be considered to show a starter test and a charging system test which are a function of a battery test.

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Consideration and favorable action are respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment, including the Office Action’s characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejection claims in further prosecution of this or related applications.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: /Judson K. Champlin/
Judson K. Champlin, Reg. No. 34,797
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

JKC:lrs